

DOCKET NO.: 202491US6



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

GROUP: 2142

Tomoshi HIRAYAMA

SERIAL NO: 09/774,620

EXAMINER: D. B. BLAIR

FILED: February 1, 2001

FOR: DATA-PROVIDING SYSTEM, TRANSMISSION SERVER, DATA
TERMINAL APPARATUS AND DATA-PROVIDING METHOD

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

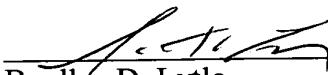
This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s). No more than five (5) pages are provided.

I am the attorney or agent of record.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.


Bradley D. Lytle

Registration No. 40,073

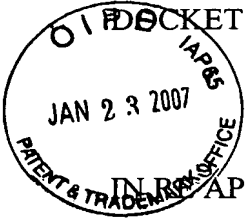
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TRANSMISSION SERVER, DATA
TERMINAL APPARATUS AND
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:

REMARKS ACCOMPANYING
PRE-APPEAL BRIEF REQUEST FOR REVIEW

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicant respectfully requests that a Pre-Appeal Brief Conference be initiated in accordance with the pilot program outlined in the Official Gazette Notice of July 12, 2005.

FAILURE TO PRESENT A *PRIMA FACIE* CASE OF OBVIOUSNESS

Applicant submits that the Official Action of October 24, 2006 as well as the Advisory Action of January 10, 2007 have failed to provide a *prima facie* case of obviousness with respect to Claims 195-203.

Pending Claims 195-203 stand rejected under 35 U.S.C. § 103 over Bassett et al. (U.S. Patent No. 7,010,492, hereinafter "Bassett") in view of Ford (U.S. Patent No.

6,181,364).¹ As outlined in the detailed response filed December 7, 2006, this rejection is deficient in that the secondary reference (Ford) does not provide the element of the Applicant's claims for which it has been asserted. As the primary reference (Bassett) is acknowledged in the Official Action of October 24, 2006 as being deficient in this regard, Bassett need not be discussed with reference to this element of the Applicant's pending claims.²

In response to Applicant's Response and Request for Reconsideration filed December 7, 2006, the Advisory Action noted that:

The applicant's remarks do not specifically address the independent claim but rather seems to be trying to argue that there is no motivation to combine the cited references and that claim 202 is not taught by the cited references. In response, the motivation has been clearly stated in the office action and the applicant's claims are broad enough to cover the combination of the cited references. (emphasis added)

As explicitly pointed out in the Applicant's response, independent Claim 195 recites, *inter alia*, a data-providing system, including:

... an edit control section configured to perform an editing operation on the attributes of each program data and auxiliary data items, thereby automatically assembling new content data the attributes including a conflict attribute identifying associated content data which is precluded from assembly with predetermined other content data for providing new content data; and

a second data-transmitting section configured to select the auxiliary data items to be inserted into the program data in accordance with the new content data assembled by the edit control section, thereby to transmit a continuous stream of adapted content data that includes multimedia content groups, each composed of the program data and the auxiliary data items, wherein at least one of the auxiliary data items include an effective reproduction date.

Ford describes a system for filtering content from video. As shown in Figure 1, a system (10) filters video so that objectionable content is not displayed to the viewer. In

¹ Claim 202 is also rejected on this combination in further review of Venkatesan.

² See Official Action of October 24, 2006 at page 3 which acknowledges that Bassett does not disclose or suggest the conflict attribute.

operation, unfiltered video signals are provided to control circuitry (12) by a remote video source (14) and by a local video source (16).³ User equipment “(18) filters incoming video from the remote video source (14) and local video source (16) and generates filtered video which is provided to a monitor (24). In this regard, the video from the video source (14) and the local video source (16) contain embedded codes to identify the location and nature of potentially objectionable events. Typically, such events would include vulgar language or language relating to sex or violence or other objectionable content.⁴ As noted at column 5 line 42 to column 6 line 4, substitution event tables are established so that upon encountering a substitution event, suitable content can be combined with the video to avoid presenting the objectionable content to the monitor.

The comments of the Advisory Action of January 10, 2007 are clearly incorrect. As explicitly noted in this previous filing, Ford provides a system for flagging content in video and, upon encountering a flag, seeking alternative content for substitution as dictated by and an index table. In this way, the **Ford system simply provides a flag which is used as an index to a table for identifying content to be inserted into a video stream at a designated flag position.** Ford does not describe or suggest an attribute which identifies a conflict with associated content data which is **precluded from assembly** with predetermined other content data for providing **new content data** as recited in Applicant’s Claim 195 and any claims depending therefrom.

To the extent that the objectionable content citation to the Ford reference is understood, the Official Action seems to be taking the position that the objectionable content itself is equivalent to Applicant’s conflict attribute. As the objectionable content is, by act of filtering, precluded from assembly with its associated content. However, this position is not

³ Ford at column 3 lines 11-16.

⁴ Ford at column 3 line 57 to column 4 line 11.

tenable as the Applicant's claims require that the conflict attribute identify associated content data which is precluded from assembly with predetermined other content data for providing **new content data**. Ford merely identifies objectionable content data which must be extracted from existing content data. There is no identification of a conflict with respect to material which may be substituted for the objectionable material which would be precluded from assembly for providing new content as recited in the Applicant's pending claims.

Accordingly, Applicant respectfully requests that the rejection of Claims 195-202 under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

Based on this clear legal deficiency in the above-noted rejection, Applicant respectfully requests that prosecution be re-opened as the current grounds of rejection have not been clearly developed to such an extent that the Applicant can readily judge the Examiner's position or the advisability of preparing a traditional Appeal Brief.

Respectfully submitted,

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